

Talking points on taxability of student meals
August 18, 2005

1. The State Tax Commission routinely conducts sales tax audits of schools and colleges to confirm that these entities are properly collecting sales taxes on non-exempt retail sales, including food.

Although no meals have ever been exempt from taxation under the sales tax law, for many years some student meals have been treated as being exempt since there has been no way to determine their value for tax purposes.

2. The Tax Commission recently clarified its interpretation of the sales tax laws and regulations related to student meals but due to administrative problems created for colleges by the agency's position on this subject, the agency has agreed to grant all colleges in Mississippi additional time until July 1, 2006, to fully implement these changes or to take other actions they deem appropriate.

3. All meals currently being sold on college campuses to students or others for cash, including charges made on any kind of debit cards or with any flex dollar accounts, are taxable and the delayed

implementation date for taxing student meal plans does not apply to cash or cash equivalent sales.

4. The State Tax Commission has generally held that elementary and secondary school (K-12) cafeteria meals are not taxable under the sales tax law because there is no competition with private enterprise, i.e., the students have no choice other than to bring their meals from home. The Tax Commission's position on elementary and secondary school meals has not changed. In the few instances where schools have allowed commercial food establishments, e.g. Pizza Hut, to sell food to students through the school, those sales have been taxable and will continue being taxable.